

ANALYSIS

This ordinance amends Chapters 11.70 through 11.80 and 11.84 through 11.88 of Title 11 – Health and Safety of the Los Angeles County Code, relating to the regulation of underground storage tanks, as follows:

- To update the ordinance to incorporate changes to state laws and regulations relating to permitting and operating requirements for underground storage tanks;
- To add definitions of certain terms used in the ordinance;
- To revise certain procedures set forth in the ordinance pertaining to enforcement and administrative appeal; and
- To make housekeeping and other minor changes to clarify certain provisions in the ordinance.

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By



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JCW:jjj

Requested: 03/25/15
Revised: 05/04/15

ORDINANCE NO. 2015-0016

An ordinance amending Chapters 11.70 through 11.80 and 11.84 through 11.88 of Title 11 – Health and Safety of the Los Angeles County Code, relating to regulation of underground storage tanks.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 11.70.010 is hereby amended to read as follows:

11.70.010 Definitions ~~a~~Applicable to Division 4.

The definitions in ~~California Health and Safety Code, Division 20, Chapter 6.7, of the California Health and Safety Code and California Code of Regulations, Title 23, Division 3, Chapter 16, of the California Code of Regulations~~ shall govern the construction of this ~~D~~division 4 of Title 11 and any permits issued thereunder unless otherwise defined in this chapter or otherwise apparent from the context.

SECTION 2. Section 11.70.030 is hereby amended to read as follows:

11.70.030 Appeals ~~b~~Board.

"Appeals board" means the ~~CUPA~~-appeals board as established by the CUPA or the PA pursuant to Section 11.72.070 of this division.

SECTION 3. Section 11.70.040 is hereby amended to read as follows:

11.70.040 Board.

"Board" means the ~~b~~Board of ~~s~~Supervisors of the ~~e~~County of Los Angeles.

SECTION 4. Section 11.70.043 is hereby added to read as follows:

11.70.043 Certified Unified Program Agency or CUPA.

"Certified unified program agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection for the State of California to implement the unified program pursuant to Division 20, Chapter 6.11, of the California Health and Safety Code, commencing with section 25404. For purposes of this division, the CUPA is the Los Angeles County Fire Department.

SECTION 5. Section 11.70.060 is hereby amended to read as follows:

11.70.060 Director.

"Director" means the ~~d~~Director of ~~p~~Public ~~w~~Works of the ~~e~~County of Los Angeles, or his/her authorized deputy, agent, representative or inspector acting as the local agency or the unified program agency PA for the implementation of the underground storage tank element of the unified program.

SECTION 6. Section 11.70.070 is hereby amended to read as follows:

11.70.070 CUPA Facility.

~~"CUPA" means the Certified Unified Program Agency certified by the Secretary for Environmental Protection for the state of California~~ "Facility" means any one of, or any combination of, underground storage tanks or underground storage tank systems used by a person at a single location, which are subject to the requirements of this division.

SECTION 7. Section 11.70.090 is hereby amended to read as follows:

11.70.090 Forester and ~~f~~Fire wWarden.

"Forester and ~~f~~Fire wWarden" means the ~~f~~Forester and ~~f~~Fire wWarden, of the consolidated fire protection district of Los Angeles County and the eChief of the fire department ~~of the county of Los Angeles~~ County Fire Department, or his/her authorized deputy, agent, representative or inspector.

SECTION 8. Section 11.70.100 is hereby amended to read as follows:

11.70.100 Hazardous materialSubstance.

"Hazardous materialsubstance" means any material, substance, or waste ~~which~~that is subject to regulation pursuant to ~~California Health and Safety Code, Division 20, Chapter 6.7, Section 25284(g)~~ Section 11.74.010 of this division.

SECTION 9. Section 11.70.105 is hereby added to read as follows:

11.70.105 Minor Repair.

"Minor repair" means maintenance, ordinary upkeep, or other work necessary to operate or maintain an underground storage tank without altering its approved operating capacity or functionality, and which does not require a license, manufacturer training, certification, or further testing to complete or implement.

SECTION 10. Section 11.70.110 is hereby amended to read as follows:

11.70.110 Ordinance.

"Ordinance" means an ordinance of the ~~e~~County of Los Angeles.

SECTION 11. Section 11.70.115 is hereby added to read as follows:

11.70.115 Participating Agency or PA.

"Participating Agency" or "PA" has the meaning set forth in Division 20, Chapter 6.11, of the California Health and Safety Code, subsection 25404(a)(1)(B). For purposes of this division, the PA is the Los Angeles County Department of Public Works.

SECTION 12. Section 11.70.120 is hereby repealed in its entirety.

SECTION 13. Section 11.70.130 is hereby amended to read as follows:

11.70.130 Permit qQuantity ILimit.

"Permit quantity limit" means the maximum amount of any hazardous materialssubstance that can be stored in a facility. Separate permit quantity limits will be set for each underground storage tank ~~for which a permit is obtained~~ listed on a uniform program facilities permit in accordance with the requirements of this division.

SECTION 14. Section 11.70.140 is hereby amended to read as follows:

11.70.140 Permittee.

"Permittee" means any person, ~~firm, corporation or partnership~~ to whom a permit is issued pursuant to this division and any authorized representative, agent, or designee of such person, ~~firm, corporation or partnership~~. Permittee may also refer to an applicant for a permit.

SECTION 15. Section 11.70.145 is hereby added to read as follows:

11.70.145 Person.

"Person" shall have the same meaning as in Division 20, Chapter 6.5, of the California Health and Safety Code, section 25118, and includes any individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation.

"Person" also includes any city, county, district, commission, state, or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

SECTION 16. Section 11.70.150 is hereby added to read as follows:

11.70.150 Red Tag.

"Red tag" means a red tag affixed to a non-compliant underground storage tank system in accordance with Division 20, Chapter 6.7, of the California Health and Safety Code, section 25292.3, and Title 23, Division 3, Chapter 16, Article 10.5, of the California Code of Regulations, commencing with section 2717.

SECTION 17. Section 11.70.160 is hereby added to read as follows:

11.70.160 Significant Violation.

A. "Significant violation" means the failure of a person to comply with any requirement of Division 20, Chapter 6.7, of the California Health and Safety Code, any regulation adopted thereunder, or any requirement of this division, that is any of the following:

1. A violation that is causing, or threatens to cause, a liquid release of hazardous substances from an underground storage tank system, including, but not limited to: the failure of any required overfill prevention system, where the failure is causing or threatens to cause a release; or the failure of a required spill containment structure, where the failure is causing or threatens to cause a release to the environment due to a spill or an overfill.

2. A violation that impairs the ability of an underground storage tank system to detect a liquid leak or contain a liquid release of hazardous substances in the manner required by law, including, but not limited to: tampering with leak detection equipment so that the equipment is no longer capable of detecting a leak at the earliest possible opportunity.

3. A chronic violation or a violation that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the Director shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to any requirement of Division 20, Chapter 6.7, of the California Health and Safety Code or of any regulation adopted thereunder, not including the corrective action requirements in Division 20, Chapter 6.7, of the California Health and Safety Code, section 25296.10, and Title 23, Division 3, Chapter 16, Article 11, of the California Code of Regulations.

B. "Imminent threat to human health or safety or the environment" means a condition that, as determined by the Director, creates a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take

immediate action to prevent, reduce, or mitigate the actual or potential damages to human health or safety or the environment.

C. Notwithstanding subsection A of this section, "significant violation" does not include a failure to comply with the corrective action requirements of Division 20, Chapter 6.7, of the California Health and Safety Code, section 25296.10, and Title 23, Division 3, Chapter 16, Article 11, of the California Code of Regulations.

SECTION 18. Section 11.70.170 is hereby added to read as follows:

11.70.170 Substantial Modification.

"Substantial modification" means an action which, in the determination of the Director, modifies the approved operating capacity or functionality of any portion of the underground storage tank system, rectifies an issue that would otherwise prevent the monitoring system from properly functioning, or corrects an issue that would otherwise prevent the underground storage tank system from safely storing hazardous substances and preventing water intrusion, in accordance with approved plans and applicable laws, regulations, and codes, or any action that requires testing, certification, retesting, or recertification, of the affected parts for the proper operation of an underground storage tank, as well as any state-mandated modifications or upgrades.

SECTION 19. Section 11.70.200 is hereby added to read as follows:

11.70.200 Tank.

"Tank" means a stationary device designed to contain an accumulation of hazardous substances that is constructed primarily of non-earthen materials that provide structural support, including, but not limited to, wood, concrete, steel, or plastic.

SECTION 20. Section 11.70.210 is hereby amended to read as follows:

11.70.210 Trade ~~s~~Secret.

"Trade secret" may include, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information ~~which~~that is not patented, ~~which~~or that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade; ~~or~~and any service having commercial value, ~~and~~ which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

SECTION 21. Section 11.70.220 is hereby amended to read as follows:

11.70.220 Unauthorized ~~discharge~~Release.

"Unauthorized ~~discharge~~release" means any release or emission of any hazardous material~~s~~substance ~~which that does not conform to~~ is not authorized by the provisions of this division, unless such release is in accordance with the release regulations of ~~the South Coast~~an Air Quality Management District and the California Air Resources Board, a national pollutant discharge elimination system permit, or waste discharge requirements established by a Regional Water Quality Control Board pursuant to the Porter Cologne Water Quality Act or Title 20, Division 2, of this code.

SECTION 22. Section 11.70.230 is hereby amended to read as follows:

11.70.230 Underground ~~s~~Storage ~~t~~Tank.

"Underground storage tank" means any tank, including pipes connected thereto, ~~which~~that is used for the storage of hazardous materials ~~or substances~~ and ~~which~~that is

substantially or totally beneath the surface of the ground. For purposes of this division, the term "underground storage tank" does not exclude the following:

- A. A farm tank.
- B. A heating oil tank.
- C. An industrial waste pretreatment or process tank containing hazardous substances while in a static flow condition and providing unit operations other than gravity separation.

SECTION 23. Section 11.70.235 is hereby added to read as follows:

11.70.235 Underground Storage Tank System.

"Underground storage tank system" means an underground storage tank and associated monitoring systems.

SECTION 24. Section 11.70.240 is hereby amended to read as follows:

11.70.240 Unified pProgram Facility pPermit.

"Unified program facility permit" means a permit issued by the CUPA pursuant to Division 20, Chapter 6.11, of the California Health and Safety Code, section 25404.2, incorporating one or more underground storage tanks, including any addenda thereto.

SECTION 25. Section 11.72.010 is hereby amended to read as follows:

11.72.010 Title for eCitation.

The ordinance codified in Division 4 of Title 11 of this code shall be known as the "Underground Storage of Hazardous MaterialsSubstances Ordinance," and may be referred to as such.

SECTION 26. Section 11.72.020 is hereby amended to read as follows:

11.72.020 Purpose.

The purpose of this division is the protection of health, life, resources and property and the prevention of short- and long-term health hazards or environmental degradation through prevention and control of unauthorized ~~discharges~~releases of hazardous ~~materials~~substances from underground storage tanks.

SECTION 27. Section 11.72.030 is hereby amended to read as follows:

11.72.030 General ~~e~~Obligation—Safety and ~~e~~Care.

A. No person, ~~firm or corporation~~ shall cause, suffer, or permit the storage of hazardous ~~materials~~substances in underground storage tanks:

1. In a manner ~~which~~that violates a provision of this division or any other local, federal, or state statute, code, rule, or regulation relating to hazardous ~~materials~~substances; or

2. In a manner ~~which~~that causes an unauthorized ~~discharge~~release of hazardous ~~materials~~substances or poses a significant risk of such unauthorized ~~discharge~~release.

B. ~~The director may request State Water Resources Control Board authorization for additional design and construction standards other than those set by this division.—An applicant may apply to the Director for a site-specific variance from what is provided for in this division, allowing for an alternative method of construction or monitoring of an underground storage tank.~~

SECTION 28. Section 11.72.040 is hereby amended to read as follows:

11.72.040 Specific ~~e~~Obligation.

A. Any person, firm, or corporation which who owns or operates an underground storage tank in which is stored any material regulated by this division shall obtain and keep current a hazardous materials underground storage permit or unified program facility permit listing the underground storage tanks operated.

B. AllAny such hazardous materialssubstances stored in such underground storage tank shall be ~~contained~~stored in conformity with Chapter 11.74 of this division.

C. The storage of such hazardous materialssubstances shall be in conformance with the conditions and limitations of a hazardous materials underground storage permit or unified program facility permit.

SECTION 29. Section 11.72.045 is hereby amended to read as follows:

11.72.045 Conformance wWith sState lLaw.

The provisions of ~~California Health and Safety Code, Division 20, Chapter 6.7, of the California Health and Safety Code~~, and regulations promulgated thereunder, are hereby adopted by reference except as may be modified and extended by this division.

SECTION 30. Section 11.72.050 is hereby amended to read as follows:

11.72.050 Enforcement—Director ~~p~~Powers.

The ~~d~~Director shall enforce all the provisions of this Division 4, and for such purpose shall have the powers of a peace officer. The ~~d~~Director shall implement ~~California Health and Safety Code~~Division 20, Chapter 6.7, of the California Health and Safety Code, as the local agency pursuant to Section 25283 or as a participating

agencyPA to atthe CUPA pursuant to California Health and Safety Code, Division 20, Chapter 6.11, of the California Health and Safety Code, Ssection 25404.1(b)(3). In accordance with Division 20, Chapter 6.7, of the California Health and Safety Code, section 25299.4, the Director may request State Water Resources Control Board authorization for additional design and construction standards other than those set by the California Health and Safety Code and regulations promulgated thereunder. In accordance with Division 20, Chapter 6.7, of the California Health and Safety Code, section 25299.2, the Director is further authorized to adopt and enforce a standard of performance that is more stringent than that provided in Division 20, Chapter 6.7, of the California Health and Safety Code, and regulations promulgated thereunder, consistent with the purposes of this division. SuchThe powers enumerated herein shall not limit or otherwise affect the powers and duties of the eCounty hHealth eOfficer or the fForester and fFire wWarden.

SECTION 31. Section 11.72.060 is hereby amended to read as follows:

11.72.060 Professional aAssistance for dDirector dDeterminations.

Whenever the approval or satisfaction of the dDirector may be required in this division for a design, monitoring, testing, or other technical submittal by an applicant or permittee, the dDirector may, in his/her discretion, require such applicant or permittee, at the applicant's or permittee's sole cost and expense, to retain a suitable qualified independent engineer, or chemist, or other appropriate professional consultant, acceptable to the dDirector, for the purpose of evaluating and rendering a professional opinion respecting the adequacy of such submittal to achieve the purposes of this

division. The ~~e~~Director shall be entitled to rely on such evaluation and/or opinion of such engineer, chemist or professional consultant in making the relevant determinations provided for in this division.

SECTION 32. Section 11.72.065 is hereby repealed in its entirety.

SECTION 33. Section 11.72.070 is hereby amended to read as follows:

11.72.070 Appeals ~~b~~Board.

~~In order to hear a~~Appeals provided for in this division, there shall be heard by an appeals board established by the CUPA or, if the CUPA declines to establish such appeals board, the PA. The composition of the appeals board will depend on the nature of the appeal, as determined by the PA or the CUPA, as applicable. The appeals board shall consist of ~~five~~ at least three (3) members designated by the Forester and Fire Warden or the Director, as applicable, who are qualified to pass on matters pertaining to ~~underground storage of hazardous materials agreed to by the appeals board~~ substances. ~~The appeals board~~ CUPA or the PA, as applicable, shall adopt reasonable rules ~~and regulations for conducting its investigations~~ hearings before the appeals board. The CUPA or the PA, as applicable, shall keep a record of all proceedings and notify all parties concerned of the findings and decisions of the appeals board.

SECTION 34. Section 11.74.010 is hereby amended to read as follows:

11.74.010 Materials ~~r~~Regulated.

The materials regulated by this division shall consist of the following:

A. Any material defined as a hazardous ~~material~~substance by Section ~~11.70.100 of this d~~Division 20, Chapter 6.11, of the California Health and Safety Code, section 25281(h);

B. Any material ~~which~~that has been determined by the party storing it, through testing or other objective means, to be likely to create a significant potential or actual hazard to public safety or welfare. This subsection shall not establish a requirement to test for the purposes of this division.

SECTION 35. Section 11.74.020 is hereby amended to read as follows:

11.74.020 Containment of ~~h~~Hazardous materialsSubstances.

A. No person, ~~firm or corporation~~ shall store any hazardous ~~materials~~substances regulated by this division in an underground storage tank until a unified program facility permit listing such underground storage tank has been issued ~~pursuant to in accordance with Section 11.80 of this division.~~ No such permit shall be ~~granted~~approved pursuant to this division unless the applicant demonstrates to the satisfaction of the ~~d~~Director, by the submission of appropriate plans and other information, that the design and construction of the facility will result in a suitable manner of underground storage for the hazardous ~~material~~substance or ~~materials~~substances to be contained therein.

B. All installation, construction, repair, or modification, closure, and removal shall be to the satisfaction of the dDirector. The owner shall furnish the dDirector with certification that all underground storage tanks, associated piping and monitoring systems were properly installed. ~~The director shall have the discretion to request authorization as provided in Section 11.72.030 to impose reasonable additional or different requirements in order to better secure the purpose and general obligation of this division for protection of public health, safety and welfare and prevention of short or long term health hazards or environmental degradation.~~

SECTION 36. Section 11.74.030 is hereby amended to read as follows:

11.74.030 New-fFacilities Installed After January 1, 1984.

A. ~~New Underground Storage Tanks. No person, firm or corporation shall construct or install any new underground storage tank or facility until a permit has been issued pursuant to this division.~~Minimum Standards. All new underground storage tanks installed after January 1, 1984 must, at a minimum, meet the design, construction and monitoring standards of Article 3 of Chapter 16 of Division 3 of Title 23 of the California Code of Regulations and Division 20, Chapter 6.7, of the California Health and Safety Code.

B. Monitoring Capability. All new facilities ~~intended for the underground storage of hazardous material~~tanks shall be designed and constructed with a monitoring system capable of detecting that the hazardous materialssubstance stored in the primary containment has entered the secondary containment. Visual inspection of the primary containment is the preferred method; however, other means of continuous

monitoring may be required by the ~~e~~Director. Where secondary containment may be subject to the intrusion of water, a means of monitoring for such water shall be provided. Whenever monitoring devices are provided, they shall, where applicable, be connected to attention-getting visual and/or audible alarms.

C. Containment Requirements. Primary and secondary levels of containment shall be required for all new ~~facilities intended for the underground storage tanks, of hazardous materials~~ unless exempted by Division 20, Chapter 6.7, of the California Health and Safety Code.

1. All primary containment shall be "product-tight" within the meaning of Division 20, Chapter 6.7, of the California Health and Safety Code, section 25290.1(a), and compatible with the stored product.

2. Secondary Containment.

a. All secondary containment shall be constructed of materials of sufficient thickness, density, and composition so as not to be structurally weakened as a result of contact with ~~the discharged~~released hazardous materials~~substances~~ and so as to be capable of containing hazardous materials~~substances~~ dischargedreleased from a primary containment for a period of time equal to or longer than the maximum anticipated time sufficient to allow recovery of the ~~discharged~~released hazardous materials~~substance~~.

b. In the case of installation with one primary containment, the secondary containment shall be large enough to contain at least ~~400~~one hundred percent (100%) of the volume of the primary containment.

c. In the case of a facility with multiple primary containments, the secondary containment shall be large enough to contain ~~450~~one hundred fifty percent (150%) of the volume of the largest primary containment placed in it, or ~~40~~ten percent (10%) of the aggregate internal volume of all primary containments in the facility, whichever is greater.

d. If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a twenty-four (24)-hour rainfall as determined by a one-hundred (100)-year storm history.

3. Laminated, coated, or clad materials shall be considered single-walled and shall not be construed to fulfill the requirements of both primary and secondary containment.

4. The design and construction of underground storage tanks for motor vehicle fuels storage installed before January 1, 1997, need not meet the requirements of Section 11.74.030 C1-C3 of this division if all of the conditions of paragraph (7) of subdivision ~~(b)~~(a) of Section 25291 of Division 20, Chapter 6.7, of the California Health and Safety Code are met.

D. Spill and Overfill Protection. Means of spill and overfill protection shall be required for any primary containment. This may be an overfill prevention device and/or an attention-getting high level alarm.

E. Separation of Materials. Materials that in combination may cause fire or explosion, or the production of a flammable, toxic, or poisonous gas, or the deterioration

of a primary, or secondary containment shall be separated in both the primary and secondary containment so as to avoid intermixing.

F. **Drainage System.** Drainage of precipitation from within a storage facility containing hazardous ~~materials~~substances shall be controlled in a manner approved by the director so as to prevent hazardous ~~materials~~substances from being ~~discharged~~released. No drainage system will be approved unless the flow of the drain can be controlled. Disposal of drainage shall comply with the requirements of Title 20, Division 2, of this code.

G. All underground storage tanks installed on or after July 1, 2004, shall comply with the design, construction, monitoring and maintenance requirements of Division 20, Chapter 6.7, of California Health and Safety Code, section 25290.1.

SECTION 37. Section 11.74.040 is hereby amended to read as follows:

11.74.040 ~~Existing f~~Facilities in Existence Before January 1, 1984.

Any facility in existence as of January 1, 1984, ~~which~~that does not meet the standards of Section 11.74.030, may be issued a ~~provisional~~unified program facility permit pursuant to Chapter 11.80 of this division as long as it is providing suitable underground storage for hazardous ~~materials~~substances. In addition, such facility must be monitored in accordance with a plan approved by the ~~d~~Director as set forth in this section. ~~Such facility shall have 30 days from the date of notification by the director or by the date established by California Health and Safety Code, Chapter 6.7, whichever occurs first, to file a complete application for a permit including a monitoring plan.~~

A. A monitoring plan for each such facility shall be submitted to the dDirector as part of the permit application.

B. Monitoring under such plan shall include visual inspection of the primary containment wherever practical; however, if the visual inspection is not practical, an alternative method of monitoring each facility on a semiannual or more frequent basis may be approved by the dDirector.

C. Alternative method(s) of monitoring may include but are not limited to: pressure testing of piping systems; groundwater monitoring well(s) where appropriate; and analysis of the soil boring(s) at the time of initial installation of the well(s). The number of well(s), depth of well(s), and sampling frequency shall be approved by the dDirector. All monitoring methods must meet the design standards of Article 4 of Chapter 16 of Division 3 of Title 23 of the California Code of Regulations.

~~D. Such monitoring devices and methods, as approved by the director, shall be installed and operating within six months of the issuance of a provisional permit in accordance with Section 11.80.050. The director may grant an extension of this compliance date; however, such extension shall not exceed one additional six month period, or December 22, 1998, whichever occurs first. The full term permit may be issued when compliance with this subsection has been achieved.~~

~~E~~D. The continued use of, and permit approval for, ~~existing facilities in~~ existence as of January 1, 1984, is subject to review and modification or termination by the dDirector whenever there has been any unauthorized ~~discharge~~release. In determining whether continued underground storage in such facility is suitable, the

~~d~~Director shall consider the age of the facility, the methods of containment, the methods of monitoring, the feasibility of the required retrofit, the concentration of the hazardous materials~~substances~~ contained, the severity of potential unauthorized discharge~~release~~, and the suitability of other long-term preventive measures which meet the intent of this division.

~~FE.~~ Existing ~~f~~Facilities in existence as of January 1, 1984, which~~that~~ are not approved in accordance with this section must be upgraded ~~to comply with this division~~ or be closed in accordance with Section 11.80.070 ~~within one year of a decision not to issue a full term permit. An extension of time for compliance with this subsection not to exceed one additional six-month period, or December 22, 1998, whichever occurs first,~~ may be granted by the director.

SECTION 38. Section 11.74.050 is hereby amended to read as follows:

11.74.050 Out of ~~s~~Service ~~f~~Facilities.

- A. No facility shall be abandoned.
- B. Facilities ~~which~~that~~~~ are temporarily out of service, and are intended to be returned to use, must continue to be monitored and inspected.
- C. Any facility ~~which~~that~~~~ is not being monitored and inspected in accordance with this division must be closed or removed in a manner approved by the ~~d~~Director in accordance with Section 11.80.070.
- D. Any person, ~~firm or corporation~~ having an interest, including a leasehold interest, in real property and having reason to believe that an abandoned facility is located upon such property shall make a reasonable effort to locate such facility ~~within~~

~~six months of the effective date of the ordinance codified in this division~~ and make a report to the Director.

E. Whenever an abandoned facility is located, a plan for the closing or removing or the upgrading and permitting of such facility shall be filed within ninety (90) days of its discovery. A closure plan shall conform to the standards specified in Section 11.80.070.

SECTION 39. Section 11.74.060 is hereby amended to read as follows:

11.74.060 Monitoring, ~~t~~Testing and ~~i~~Inspection.

Every permittee under this division shall provide testing, monitoring ~~(if applicable)~~, employee training, reporting, and inspections in compliance with the unified program facility permit and shall maintain records adequate to demonstrate compliance therewith to the ~~d~~Director.

SECTION 40. Section 11.74.070 is hereby amended to read as follows:

11.74.070 Maintenance, ~~r~~Repair or ~~r~~Replacement.

A. Every P~~ermittee under this division will~~shall carry out ordinary maintenance, ~~ordinary-upkeep,~~ and minor repairs in a careful and safe manner. No permit addenda will be required for such maintenance, ~~and-upkeep,~~ or minor repairs.

B. Any substantial modification or repair of a facility other than minor repairs or emergency repairs shall be in accordance with plans to be submitted to the ~~d~~Director and approved in accordance with Section ~~11.80.070~~ A11.80.010 as part of a permit addendum prior to the initiation of such work.

C. Permittee may make emergency repairs to a facility in advance of seeking ~~an additional a permit approval~~addendum whenever an immediate repair is required to prevent or contain an unauthorized ~~discharge~~release or to protect the integrity of the containment. However, within five (5) working days after such emergency repairs have been started, permittee shall ~~seek approval~~apply for a permit addendum pursuant to ~~Section 11.80.070-A~~11.80.010 by submitting drawings and/or other information adequate to describe the repairs to the ~~e~~Director.

D. Replacement of any facility must be in accordance with the new installation standards ~~of~~set forth in Section 11.74.030

E. Any work performed on the underground storage tank system, including testing and certification, must be performed by licensed persons who are trained and certified in accordance with Title 23, Division 3, Chapter 16, Article 10, of the California Code of Regulations, section 2715.

SECTION 41. Section 11.74.080 is hereby amended to read as follows:

11.74.080 Emergency ~~e~~Equipment.

Emergency equipment as may be required by the ~~f~~Forester and ~~f~~Fire wWarden or other fire agency with jurisdiction over the facility shall be provided. Such equipment shall be regularly tested and adequately maintained.

SECTION 42. Section 11.74.090 is hereby amended to read as follows:

11.74.090 Labeling and ~~p~~Posting of ~~f~~Facilities.

All underground storage tanks within a facility shall be labeled in accordance with ~~California Code of Regulations, Title 8, Article 112~~local, state, and federal requirements.

SECTION 43. The title of Chapter 11.76 is hereby amended to read as follows:

Chapter 11.76

**UNAUTHORIZED ~~DISCHARGE~~RELEASE OF HAZARDOUS
MATERIAL~~S~~SUBSTANCES**

SECTION 44. Section 11.76.010 is hereby amended to read as follows:

11.76.010 Responsibility for ~~u~~Unauthorized ~~discharge~~Release.

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed unauthorized ~~discharge~~release of a hazardous material~~s~~substance, such person shall take all necessary steps to ensure the discovery, and containment, and cleanup of such ~~discharge~~release and shall notify the ~~d~~Director of the occurrence as required by this section.

A. Confirmed Unauthorized ~~Discharge~~Release.

1. **Recordable Unauthorized ~~Discharge~~Release.** Any recordable unauthorized ~~discharge~~release shall be contained and safely disposed of in an appropriate manner by permittee and such occurrence and the response thereto shall be recorded in the permittee's monitoring records. A "recordable unauthorized ~~discharge~~release" is any unauthorized ~~discharge~~release of a hazardous material~~s~~substance ~~which~~that meets all of the following criteria:

a. The ~~discharge~~release is from a primary containment to a secondary containment or to a rigid aboveground surface covering capable of

containing the discharge~~release~~ until cleanup of the hazardous material~~substance~~ is completed; and

b. The permittee is able to adequately clean up the discharge~~release~~ before it escapes from such secondary containment or such aboveground surface, except that if the cleanup requires more than eight (8) hours, it becomes a reportable discharge~~release~~ in accordance with subdivision 2 of this subsection; and

c. There is no increase in the hazard of fire or explosion, nor is there any production of a flammable or poisonous gas, nor is there any deterioration of such secondary containment or such rigid aboveground surface covering.

2. Reportable Unauthorized Discharge~~Release~~. Any reportable unauthorized discharge~~release~~ ~~which escapes from the secondary containment increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground storage tank~~ must be reported to the dDirector immediately. The reporting party shall provide information to the dDirector relating to the ability of the permittee to contain and dispose of the hazardous material~~substance~~, the estimated time it will take to complete containment and disposal, and the degree of hazard created. The dDirector may verify that the hazardous material~~substance~~ is being contained and appropriately disposed of. The dDirector, at any time upon a determination that the permittee is not adequately containing and disposing of such hazardous material~~substance~~, shall have the power and authority to undertake and direct an emergency response in order to protect the public health and/or safety. A

"reportable unauthorized release" is an unauthorized release of a hazardous substance that meets any of the following criteria:

- a. The hazardous substances escapes from the secondary containment, or from the primary containment if there is no secondary containment;
- b. The release increases the hazard of fire or explosion, or
- c. The release causes any deterioration of the secondary containment of the underground storage tank.

B. Unconfirmed Unauthorized DischargeRelease.

1. Indication of Loss in Inventory Records. Whenever a material balance or other inventory record, employed as a monitoring technique under the permit, indicates a loss of hazardous ~~materials~~substance, and no unauthorized ~~discharge~~release has been confirmed by other means, permittee shall have five (5) working days to determine whether or not there has been an unauthorized ~~discharge~~release. If before the end of such period, it is determined that there has been no unauthorized ~~discharge~~release, an entry explaining the occurrence shall be made in permittee's monitoring records. Where permittee has not been able, within such period, to determine that there is ~~deemed has been~~ no unauthorized ~~discharge~~release, an unauthorized ~~discharge~~release is deemed confirmed and permittee shall proceed in accordance with subdivision 2 of subsection A of Section 11.76.010 above.

2. Test Results. Whenever any test results suggest a possible unauthorized ~~discharge~~release, and no unauthorized ~~discharge~~release has been confirmed by other means, the permittee shall have five (5) working days to retest. If

second test results obtained within that period establish that there has been no unauthorized ~~discharge~~release, the results of both tests shall be recorded in permittee's monitoring records. If it has not been established within such period that there has been no unauthorized ~~discharge~~release, an unauthorized ~~discharge~~release is deemed confirmed and permittee shall proceed in accordance with subdivision 2 of subsection A of Section 11.76.010 A2 above.

SECTION 45. Section 11.76.020 is hereby amended to read as follows:

11.76.020 Cleanup ~~r~~Responsibility.

Any person, ~~firm or corporation~~ responsible for storing ~~the~~a hazardous material~~substance in an underground storage tank~~ shall institute and complete all actions necessary to remedy the effects of any unauthorized ~~discharge~~release, whether sudden or gradual, in accordance with the requirements of Article 5, of Chapter 16 of Division 3 of Title 23 of the California Code of Regulations, and Division 20, Chapter 6.7 and Article 4, Chapter 6.75, of the California Health and Safety Code. The ~~e~~County shall~~may~~ undertake actions to ~~remedy the effects of~~contain, remediate, and/or address such unauthorized ~~discharge~~release ~~itself only~~ if it determines that it is reasonably necessary under the circumstances for the ~~e~~County to do so. The responsible party shall be liable to reimburse the ~~e~~County for all costs incurred by the ~~e~~County in ~~remedying the effects of~~containing, remediating, and/or addressing such unauthorized ~~discharge~~release, including the costs of fighting fires, to the extent allowed by law. This responsibility is not conditioned upon evidence of ~~wilfulness or negligence~~ of the party

of the party storing the hazardous materials substances(s) in causing or allowing such discharge release.

SECTION 46. Section 11.76.030 is hereby amended to read as follows:

11.76.030 Indemnification.

The A permittee shall indemnify, hold harmless, and defend the PA, the CUPA, and the eCounty against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized discharge release or containment and cleanup of an unauthorized discharge release in connection with permittee's operations under this any unified program facility permit, issued in accordance with this division, except as arises from the PA's, the CUPA's, or the eCounty's sole willful act or sole active negligence.

SECTION 47. Section 11.76.040 is hereby amended to read as follows:

11.76.040 Financial rResponsibility.

Every owner and operator of an underground storage tank shall establish and maintain evidence of financial responsibility as provided by Article 3 of Division 20, Chapter 6.75, of the California Health and Safety Code, sections 25299.30 and 25299.31 and Division 20, Chapter 6.7, of the California Health and Safety Code, section 25292.2. Unless otherwise exempt by law, the owner or operator shall furnish evidence of such financial responsibility to the dDirector.

SECTION 48. Section 11.78.010 is hereby amended to read as follows:

11.78.010 Inspections by the dDirector.

The dDirector may conduct inspections, at his/her discretion, for the purpose of ascertaining compliance with this division and causing to be corrected any conditions ~~which~~that would constitute any violation of this division or of any other statute, code, rule or regulation affecting the underground storage of hazardous materialssubstances. Such inspections may be in conjunction with or in addition to inspections conducted by the CUPA as required by the unified program.

SECTION 49. Section 11.78.020 is hereby amended to read as follows:

11.78.020 Right of eEntry.

Whenever necessary for the purpose of investigating or enforcing the provisions of this division, or whenever the dDirector or authorized deputy, agent, representative, or inspector of the CUPA (collectively "officer") has reasonable cause to believe that there exists in any structure or upon any premises any condition which constitutes a violation of this division, said officer may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon himthe PA by law; provided, that if such structure or premises be occupied, the officer shall first present proper credentials and request entry; and further provided, that if such structure or premises is unoccupied, the officer shall first make a reasonable attempt to contact a ~~responsible person from such a firm or corporation~~an authorized representative of the owner or operator of the property or facility and request entry, except in emergency

circumstances. If such entry is refused, the officer seeking entry shall have recourse to every remedy provided by law to secure entry.

SECTION 50. Section 11.78.030 is hereby amended to read as follows:

11.78.030 Inspections and Training by pPermittee.

The permittee shall conduct regular inspections of its own facilities as specified in its unified program facility permit to assure compliance with this division and shall maintain logs or file reports in accordance with its permit. In no event shall the permittee inspect its facility less than ~~once every three years~~monthly. The person conducting such inspections shall be qualified to conduct such inspections pursuant to Title 23, Division 3, Chapter 16, Article 10, of the California Code of Regulations, section 2715. Persons with responsibility for the facility systems operation and maintenance shall be trained within thirty (30) days of hire and at least annually thereafter, in accordance with Title 23, Division 3, Chapter 16, Article 10, of the California Code of Regulations, section 2715.

SECTION 51. Section 11.78.040 is hereby amended to read as follows:

11.78.040 Special iInspections.

In addition to or in lieu of the inspections specified ~~above~~in Sections 11.78.010 and 11.78.030, the ~~d~~Director may require the ~~periodic employment of~~permittee to periodically employ special inspectors to conduct an audit or assessment of permittee's facility to make a hazardous materialssubstance safety evaluation and to determine compliance with the provisions of this division.

A. The special inspector shall be a qualified person or firm who shall demonstrate expertise to the satisfaction of the dDirector.

B. The special inspection report shall include an evaluation of the facilities and recommendations consistent with the provisions of this division where appropriate. A copy of the report shall be filed with the dDirector at the same time that it is submitted to the permittee.

C. Permittee shall, within thirty (30) days of said report, file with the dDirector a plan to implement all recommendations, or shall demonstrate to the satisfaction of the dDirector why such recommendations should not be implemented.

SECTION 52. Section 11.78.045 is hereby amended to read as follows:

11.78.045 ~~Demonstration to~~ Inspections in Presence of the dDirector.

The dDirector may require that any regular or special inspection by the permittee pursuant to this chapter be made in the presence of ~~a representative of the dDirector.~~ The dDirector may further require advance notice of not less than seventy-two (72) hours as to the availability of equipment, material, and personnel required to conduct such inspection.

SECTION 53. Section 11.78.050 is hereby amended to read as follows:

11.78.050 ~~Maintenance of r~~ Records.

All records required by this division shall be maintained by the permittee as provided by state regulations but in no case for less than ~~threesix~~ six and a half (6-1/2) years for cathodic protection maintenance records, five (5) years for written performance claims pertaining to release detection systems and calibration and

maintenance records for such systems, and three (3) years for all other records. Said records shall be made available to the ~~d~~Director or the CUPA during normal working hours and at any time upon reasonable notice.

SECTION 54. Section 11.80.010 is hereby amended to read as follows:

11.80.010 Permit.

Any person, ~~firm, or corporation which~~ who owns or operates an underground storage tank which ~~stores a hazardous material~~ shall obtain and keep current a unified program facility permit issued pursuant to by the CUPA in accordance with this division that lists such underground storage tank. ~~For the purpose of this division, after certification of the unified program agency for a jurisdiction, the permit to operate an underground storage tank in that jurisdiction shall be a unified program permit issued by the CUPA. One such permit shall be issued for a single facility. Additional approvals shall be obtained~~ A permittee shall obtain a permit addendum for a facility for any change or addition not in accordance with the existing permit to connect, install, construct, substantially modify, or replace an underground storage tank thereafter connected, installed, constructed, repaired as required by Section 11.74.070, substantially modified, replaced, closed, or removed, or for any or to change or addition in increase the hazardous materials substances permitted to be stored, not in accordance with the prior permit. A person shall obtain a closure addendum for any underground storage tank that is to be closed or removed as required by Section 11.74.070.

SECTION 55. Section 11.80.020 is hereby amended to read as follows:

11.80.020 Application for ~~p~~Permit.

A. Application for a new ~~or amended~~ unified program facility permit or an ~~additional approval~~ addendum shall be made to the ~~d~~Director on the form provided by the ~~d~~Director or the CUPA. The application shall include, but not be limited to, all information required by ~~California Health and Safe Code, Division 20, Chapter 6.7, of~~ the California Health and Safe Code, Section 25286.

B. In addition to the above information provided by such form, applicant shall submit such additional information as may be required by the ~~d~~Director or the CUPA and construction plans, if any, in conformity with Section 11.74.020. Applicant shall specify the permit quantity limit to be permitted for each facility where the proposed monitoring, spill prevention, or overfill protection system does not allow use of the full tank capacity.

SECTION 56. Section 11.80.030 is hereby amended to read as follows:

11.80.030 Investigation.

Upon receipt of an application for a unified program facility permit, the ~~d~~Director may make such investigation of the applicant and the proposed facility or activity as he or she deems necessary to carry out the purposes of this division.

SECTION 57. Section 11.80.040 is hereby amended to read as follows:

11.80.040 Conditions for ~~a~~Approval.

No unified program facility permit or ~~approval~~ addendum shall be issued approved for the operation, alteration, transfer, or closure of an underground storage tank until the

dDirector has determined that all requirements of this division for said tank have been met.

SECTION 58. Section 11.80.050 is hereby repealed in its entirety.

SECTION 59. Section 11.80.060 is hereby amended to read as follows:

11.80.060 Issuance of pPermits.

A. Upon the approval of a ~~provisional or full term~~ an application for a unified program facility permit or addendum by the dDirector and upon the payment of any applicable fees, the CUPA shall issue and deliver to the applicant a unified program facility permit or ~~those conditions necessary to amend an existing unified program permit to reflect the additional underground storage tanks~~ addendum. Such unified program facility permit shall contain, but is not limited, to, the information required by ~~California Health and Safety Code, Division 20, Chapter 6.7, of the California Health and Safety Code~~, and regulations promulgated thereunder.

B. The dDirector shall keep a record of all permits issued and all conditions attached thereto.

SECTION 60. Section 11.80.070 is hereby amended to read as follows:

11.80.070 ~~Additional approvals~~ Closure of a Facility.

A. ~~When a request for an additional approval is filed as required by Section 11.80.010, the procedures set forth in this division for an application for a permit also apply to an application for an additional approval. Each application for an additional approval shall be accompanied by appropriate supporting information.~~

B. ~~If the additional approval request is for closure of a facility, the permittee~~A person shall apply for ~~approval~~an addendum to close ~~such a~~a facility not less than thirty (30) days prior to the termination of the underground storage of hazardous ~~materials~~substances at the facility. Such closure shall be in accordance with a closure plan ~~which~~that describes procedures for terminating the storage of hazardous ~~materials~~substances in each underground storage tank in a manner that:

1. Minimizes the need for further maintenance; and
2. ~~Controls to the extent that a~~Minimizes or eliminates any threat to public health or safety or to the environment from residual hazardous ~~materials~~substances in the facility ~~is minimized or eliminated~~; and
3. Demonstrates that hazardous ~~materials~~substances that were stored in the facility and/or contaminated soils or groundwater caused by any unauthorized ~~discharge~~release, will be removed, disposed of, neutralized, or reused in an appropriate manner. The demonstration shall be in the form of reports by a state certified laboratory, professional civil engineer, registered geologist, engineering geologist, or as required by the ~~d~~Director. ~~The 30-day period may be waived by the director if there are special circumstances requiring such waiver.~~The Director, in his or her discretion, may extend the time for a permittee to apply for a closure addendum upon a showing of special circumstances.

SECTION 61. Section 11.80.080 is hereby amended to read as follows:

11.80.080 Term of ~~p~~Permit.

~~A~~The term of a unified program facility permit may be issued for a term not to exceed one (1) year, except that a provisional permit may be issued for any period of time up to six months.

SECTION 62. Section 11.80.090 is hereby amended to read as follows:

11.80.090 Permit ~~r~~Renewal or extension.

A valid unified program facility permit shall~~applicable to any facility regulated under this division may~~ be renewed each year upon payment of the annual fee, state service charge, and any penalties due, provided the underground storage tanks ~~permitted~~or facilities listed on the permit are operated in compliance with all conditions and limitations of such permit. ~~A provisional permit may be extended for one additional six-month term, or until December 22, 1998, whichever occurs first, provided timely application was made as provided by this section, the director determines that progress has been made toward obtaining full compliance with this division and the facility continues to provide safe storage of materials. Every application for the extension of a provisional permit shall be made at least 30 days prior to the expiration date of such permit. If a timely application for extension has been submitted, the permit shall remain in effect until the director has made his/her decision pursuant to Section 11.80.100 and any administrative appeal pursuant to this chapter has been exhausted.~~

SECTION 63. Section 11.80.100 is hereby amended to read as follows:

11.80.100 Decision by dDirector.

The dDirector shall ~~grant~~approve or deny a permit ~~additional approval, or extension~~application or application for a permit addendum, within ninety (90) days after the application has been completed, all required fees have been paid, and that all applicable provisions of the California Environmental Quality Act (CEQA) have been complied with. This time limit may be further extended by mutual agreement between the dDirector and the applicant. The dDirector shall give the applicant written notice of his or her decision.

If an applicant submits a permit application that is incorrect or incomplete, the Director may return the application with a notice of correction that provides the applicant with instructions on how to correct or complete the application. The applicant may resubmit the application with the requested corrections or additional information requested by the Director. If the applicant resubmits an incomplete or incorrect application, then such applicant will be charged a resubmittal fee in accordance with Section 11.82.016 of this division the second time such applicant resubmits its application.

SECTION 64. Section 11.80.110 is hereby amended to read as follows:

11.80.110 Grounds for dDenial.

A permit shall be denied if the applicant fails to demonstrate adequate conformity to the provisions of this division. In addition, a permit can be denied for any of the

grounds upon which the permit would be subject to revocation pursuant to Chapter 11.84.

SECTION 65. Section 11.80.120 is hereby amended to read as follows:

11.80.120 Appeal to aAppeals bBoard.

Any person dissatisfied with the ~~a~~ decision of the ~~d~~Director to deny a permit or addendum pursuant to Section 11.80.100 may appeal the decision, in writing, to the appeals board, setting forth with particularity the ground or grounds for the appeal. Such appeal shall be submitted within ten (10) days after notice of the decision has been given pursuant to Section 11.80.150.

SECTION 66. Section 11.80.130 is hereby amended to read as follows:

11.80.130 Notice of ~~h~~Hearing.

The appeals board shall set a time and place for the hearing on the appeal and shall notify the appellant, applicant or permittee, and any other interested persons who have requested such notice, in writing, of such date and time not less than ten (10) days prior to the hearing.

SECTION 67. Section 11.80.140 is hereby amended to read as follows:

11.80.140 Hearing by aAppeals bBoard.

At the hearing, the appeals board shall consider all competent evidence offered by any person pertaining to the decision being appealed. At the hearing, the appeals board may also continue ~~The hearing may be continued by the appeals board for a~~ reasonable time for the convenience of a party, ~~or a witness,~~ or the appeals board, and no further notice shall be required.

SECTION 68. Section 11.80.150 is hereby amended to read as follows:

11.80.150 Hearing nNotices.

All notices required by this chapter shall be sent by first class mail to the applicant or permittee at the address given on the application or permit or delivered to the applicant or permittee personally. Notices to other interested persons who have requested notice shall be sent by first class mail to the address provided by such persons or delivered to such persons personally.

SECTION 69. Section 11.80.160 is hereby amended to read as follows:

11.80.160 Disposition of anAppeal.

After the hearing on the appeal, the appeals board may refer the matter back to the dDirector for a new investigation and decision, may affirm the decision of the dDirector, ~~may approve a provisional permit as provided in Section 11.80.050 or may~~ approve the application with or without conditions. The decision of the appeals board shall be final.

SECTION 70. Section 11.80.170 is hereby amended to read as follows:

11.80.170 Transfer of permit.

The unified program facility permit may be transferred to new owners of the same business only if the new owners accept responsibility for all obligations under this division at the time of the transfer of the business, document such transfer on a form provided by the dDirector or the CUPA within thirty (30) days of transfer of ownership of the business, and pay all fees as required by Chapter 11.82. Such transfer shall be subject to the approval of the dDirector.

SECTION 71. Section 11.80.180 is hereby amended to read as follows:

11.80.180 Authority ~~a~~After ~~s~~Suspension, ~~r~~Revocation or ~~e~~Expiration.

The suspension, revocation, or expiration of any unified program facility permit issued ~~under the division~~ shall not prevent any proceedings to investigate such permit, any administrative action against such permittee, or any other proceeding against such permittee.

SECTION 72. Section 11.80.190 is hereby amended to read as follows:

11.80.190 Return of ~~p~~Permit.

In the event that a unified program facility permit issued under the provisions of this division is suspended or revoked, the permittee shall forward it to the CUPA not later than the end of the third business day after notification of such suspension or revocation.

SECTION 73. Section 11.84.010 is hereby amended to read as follows:

11.84.010 Grounds for ~~a~~Administrative ~~a~~Action.

A permittee or the owner or operator of a facility operating without a valid unified program facilities permit may be subjected to administrative action for any of the following causes, ~~arising from the acts or omissions of the permittee, either before or after a permit is issued:~~

A. Fraud, willful misrepresentation, or any willful, inaccurate or false statement in applying for a new or renewed permit;

B. Fraud, willful misrepresentation, or any willful, inaccurate or false statement in any report required by this division;

C. Failure to abate, correct or rectify any noncompliance within the time specified in the notice of noncompliance;

D. Failure to correct conditions constituting an unreasonable risk of an unauthorized discharge~~release~~ of hazardous materials~~substances~~ within a reasonable time after notice from a governmental entity other than the ~~e~~County;

~~E.~~ Engaging in conduct that constitutes a significant violation;

~~EE.~~ Failure to abide by any administrative action imposed by the ~~d~~Director;

~~EG.~~ Failure to pay fees as established by Chapter 11.82; or

~~GH.~~ Failure to abide by any compliance dates established by this division or state or federal law.

SECTION 74. Section 11.84.020 is hereby amended to read as follows:

11.84.020 Notice of ~~n~~Noncompliance.

A. Unless the ~~d~~Director finds that an immediate suspension under Section 11.84.050 or a red tag is necessary to protect the public health or safety from imminent danger, the ~~d~~Director shall issue a notice of noncompliance to a permittee, owner or operator of a facility that fails: A. For failure to comply with the provisions of this division or any conditions or limitations of the permit; or B. Bbefore instituting administrative action pursuant to Section 11.84.010. Such notice shall specify the ground or grounds upon which the notice is based, the pertinent code section or sections with which the facility is not in compliance, and the correction period by which time the violation must be remedied. The correction period shall be thirty (30) days unless the Director determines that a shorter correction period is necessary to protect

the public health or safety. Such notice shall be sent by first class mail to the permittee. If the noncompliance is not abated, corrected, or rectified within the time specified in the notice, or if no permit has been issued or applied for, to the owner or operator of the facility. If the violation is not remedied to the satisfaction of the Director prior to the expiration of the correction period, the Director may institute, administrative action may be taken.

B. Within five (5) days of the Director's issuance of a notice of noncompliance, the permittee, owner, or operator may make a written request to the Director to reconsider such notice. Such request for reconsideration shall specify the reasons why such permittee, owner, or operator believes the notice of noncompliance should not have been issued or should be modified. The Director shall assign the task of reviewing and responding to such request for reconsideration to a member of the Director's staff whose position is at least at the level of a supervisor of the inspector who prepared the notice of noncompliance, and such person shall undertake an independent review of the written record of the notice of noncompliance. Based upon this independent review, the Director shall either affirm, modify, or rescind the notice of noncompliance and notify the person requesting reconsideration of his or her decision in writing within ten (10) days of receiving the request for reconsideration. Failure of the Director to provide a response within ten (10) days will not invalidate the notice of noncompliance. Unless the Director determines that a shorter correction period is necessary to protect public health or safety, if the Director takes longer than ten (10) days to respond to a request for reconsideration, the Director shall extend the correction period as necessary to provide

the permittee, owner or operator sufficient time to correct the violation once the Director issues a response to the request for reconsideration. If the Director declines to extend the correction period, the permittee, owner or operator shall correct the violation within the correction period without waiving its right to a response to the request for reconsideration.

SECTION 75. Section 11.84.030 is hereby amended to read as follows:

11.84.030 ~~Rights of permittee following notice of noncompliance~~ Issuance of Administrative Action.

~~Within the time specified in the notice of noncompliance, the permittee shall:~~

~~A. — Correct and remedy the conditions so specified, to the satisfaction of the director; or~~

~~B. — File with the appeals board a denial that all of the conditions so specified exist, request a public hearing, and correct the conditions which the permittee admits do exist; or~~

~~C. — File with the appeals board a denial that any of the conditions so specified exist and request a public hearing.~~

A. If an owner or operator of a facility fails to correct a violation within the time period specified in a notice of correction issued pursuant to Section 11.84.020 or such additional time allowed by the Director, or if the Director determines that an immediate suspension under Section 11.84.050 or a red tag is warranted, the Director may institute administrative action.

B. Administrative action may include:

1. An order to correct the particular noncompliance specified in the notice issued pursuant to Section 11.84.020;
2. Affixing a red tag or immediate suspension under Section 11.84.050;
3. A revocation of the unified program facility permit and approval of a provisional permit specifying corrective actions required and a timetable to accomplish compliance;
4. Suspension of the permit for the facility for a specified period not to exceed six (6) months;
5. Modification or addition of conditions of the permit;
6. Revocation of the unified program facility permit. If the grounds for administrative action are based on subsection C, D, or E of Section 11.84.010, and if such grounds are limited to one (1) or more underground storage tanks, the remedial action taken shall be limited to those underground storage tanks; and
7. An administrative enforcement order pursuant to Division 20, Chapter 6.11, of the California Health and Safety Code, section 25404.1.1.

C. Notice of administrative action shall be served by personal service or certified mail on the permittee, or if no permit has been issued or applied for, on the owner or operator of the facility.

SECTION 76. Section 11.84.040 is hereby amended to read as follows:

11.84.040 ~~Notice of h~~Hearings Following Administrative Action.

Any person who disputes an administrative action other than administrative enforcement order pursuant to Division 20, Chapter 6.11, of the California Health and Safety Code, section 25404.1.1, may make a written request for a hearing before the appeals board to review the decision. The request shall be made within fifteen (15) calendar days of the issuance of the notice of the administrative action being disputed, shall include the address of the person making the request for the purpose of correspondence by the Director, and shall also include all the information and evidence that the requestor wants the Director to consider. The failure to submit a written request for a hearing within the fifteen (15) calendar day period shall constitute a waiver of the right to a hearing, and, upon such failure, the administrative action shall become final.

Upon receipt of a request for hearing, a~~the~~ Director shall issue a written notice of hearing shall be given to the permittee by the director, in writing, to the person making the request setting forth the time and place of the hearing, ~~the ground or grounds upon which the administrative action is based, the pertinent code section or sections with which the permittee is not in compliance, and a brief statement of the factual matters in support thereof.~~ The notice shall be given at least ten (10) days prior to the hearing date.

Hearings to review administrative enforcement orders issued pursuant to Division 20, Chapter 6.11, of the California Health and Safety Code, section 25404.1.1, shall be conducted in accordance with the requirements of that statute.

SECTION 77. Section 11.84.050 is hereby amended to read as follows:

11.84.050 Suspension ~~p~~Prior to ~~h~~Hearing.

Whenever the ~~d~~Director finds that suspension of a permit prior to a hearing for administrative action is necessary to protect the public health or safety from imminent danger, the ~~d~~Director may immediately suspend any permit pending the hearing for administrative action. The ~~d~~Director shall immediately notify the permittee of such suspension by having a written notice of the suspension personally served on the permittee and/or by posting such notice at the facility in noncompliance or by other appropriate means.

SECTION 78. Section 11.84.060 is hereby repealed in its entirety.

SECTION 79. Section 11.84.070 is hereby amended to read as follows:

11.84.070 Decision of ~~a~~Appeals ~~b~~Board.

The appeals board shall conduct hearings in conformance with the rules adopted pursuant to Section 11.72.070. After the hearing, the appeals board may affirm, reverse or modify the administrative action taken by the Director. The appeals board shall render a written decision, stating the findings upon which the decision is based and the action taken, if any. The decision of the appeals board shall be final.

SECTION 80. Section 11.86.010 is hereby amended to read as follows:

11.86.010 Civil ~~p~~Penalties.

A. In addition to any other remedies provided in this division or provided by other law, Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500.00) or more than five thousand

dollars (\$5,000.00) for each underground storage tank for each day of violation for any of the following violations:

1. Operating an underground storage tank ~~which~~that has not been issued a unified program facility permit, in violation of this division;

2. Violation of any of ~~the~~any applicable requirements of the unified program facility permit issued for the operation of the underground storage tank(s);

3. Failing to maintain records, as required by this division;

4. Failing to report an unauthorized release, as required by

Section 11.76.010;

5. ~~Abandoning or Ffailing~~ to properly close an underground storage tank in accordance with the provisions of this division;

6. Violation of any applicable requirement of this division or any requirements of Division 20, Chapter 6.7, of the California Health and Safety Code, ~~Chapter 6.7~~ or any regulations promulgated thereunder;

7. Failure to permit inspection or to perform any monitoring, testing, or reporting required pursuant to this division; or

8. Making any false statement, representation, or certification in any application, record, report, or other document submitted or required to be maintained pursuant to this division.

B. In addition to any other remedies provided in this division or provided by other law, ~~Any~~ owner of an underground storage tank(s) shall be liable for a civil penalty of not less than five hundred dollars (\$500.00) or more than five thousand

dollars (\$5,000-00) per day for each underground storage tank, for each day of violation, for any of the following violations:

1. Failure to obtain a unified program facility permit as specified by this division;
2. Failure to repair or upgrade an underground tank in accordance with the provisions of this division;
3. Abandonment or improper closure of any underground tank subject to the provisions of this division;
4. Knowing failure to take reasonable and necessary steps to assure compliance with this division by the operator of an underground tank(s);
5. Violation of any applicable requirement of the unified program facility permit issued for the operation of the underground tank(s);
6. Violation of any applicable requirement of Division 20, Chapter 6.7, of the California Health and Safety Code, Chapter 6.7, and or any regulations promulgated thereunder;
7. Failure to permit inspections or to perform any monitoring, testing, or reporting required pursuant to this division;
8. Making any false statement, representation, or certification in any application, record, or other document submitted or required to be maintained pursuant to this division.

C. Any person who intentionally fails to notify the CUPA or the eDirector when required to do so by this division or who submits false information in a permit

application, amendment an application for a unified program facility permit, addenda, or renewal, pursuant to Chapter 11.80, is liable for a civil penalty of not more than five thousand dollars (\$5,000.00) for each underground storage tank for each day for which notification is not given or false information is submitted.

D. Any person who violates Division 20, Chapter 6.7, of the California Health and Safety Code, section 25292.3, by depositing or allowing the deposition of petroleum into an underground storage tank system that has a red tag affixed to the fill pipe or by removing, defacing, altering or otherwise tampering with a red tag is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each underground storage tank for each day of violation.

E. Any person who violates any corrective action requirement established by, or issued pursuant to, section 25296.10 of Division 20, Chapter 6.7, of the California Health and Safety Code is liable for a civil penalty of not more than ten thousand dollars (\$10,000) for each underground storage tank for each day of violation.

F. When any person has engaged in, is engaged in, or is about to engage in any acts or practices that violate this division, the District Attorney or the Attorney General may apply to the Superior Court for an order enjoining such acts or practices, or for an order directing compliance. The court may grant a permanent or temporary injunction, restraining order, or other order.

G. Every civil action brought under this division shall be brought by the District Attorney or the Attorney General in the name of the people of the State of

California, and any actions relating to the same violations may be joined or consolidated.

SECTION 81. Section 11.86.020 is hereby amended to read as follows:

11.86.020 Violation a ~~m~~Misdemeanor.

A. Any person, ~~firm, or corporation~~ who violates any provision of this division, or who fails to take corrective action upon becoming aware of an unauthorized ~~discharge~~release, or who fails to comply with a notice of noncompliance within the time specified or who continues to operate a facility upon suspension or revocation of a permit shall be guilty of a misdemeanor, and the ~~e~~Director may ~~cause such person, firm or corporation to be prosecuted as a violator of this code.~~refer such violation to the Los Angeles County District Attorney or other appropriate prosecuting authority for prosecution. Each day that the conditions in this section continue to exist shall be a separate violation.

B. Any person, ~~firm, or corporation~~ who falsifies any monitoring records required by this division, ~~or knowingly fails to report an unauthorized release, or~~intentionally tampers with an automatic leak detection system in a manner that would prevent the automatic leak detection system from detecting a leak or alerting the owner or operator of the leak shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000-00) or more than ten thousand dollars (\$10,000-00), or by imprisonment in the County Jail for a period not to exceed one (1) year, or by both that fine and imprisonment.

SECTION 82. Section 11.86.030 is hereby amended to read as follows:

11.86.030 Penalties ~~n~~Not ~~e~~Exclusive.

Each civil penalty or civil fine imposed pursuant to this chapter for any violation shall be separate, and in addition to, and ~~dedoes~~ does not supersede or limit, any and all other administrative actions or remedies, civil penalties or criminal fines imposed pursuant to this chapter or any other provisions of law.

SECTION 83. Section 11.88.010 is hereby amended to read as follows:

11.88.010 Disclaimer of ~~l~~Liability.

The degree of protection required by this division is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards and this division does not imply that compliance will ensure that there will be no unauthorized ~~dischargerelease~~ of hazardous materialssubstances. This division shall not create liability on the part of the ~~e~~County, or any officer or employee thereof for any damages that result from reliance on this division or any administrative decision lawfully made thereunder. All persons handling, storing, using, processing, and disposing of hazardous materialssubstances within the ~~e~~County should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this division necessary or desirable to ensure that there is no unauthorized ~~dischargerelease~~ of hazardous materialssubstances.

SECTION 84. Section 11.88.020 is hereby amended to read as follows:

11.88.020 Guidelines and ~~s~~Standards.

Guidelines and standards may be established by the ~~d~~Director and shall be maintained in the office of the ~~d~~Director and shall be available to the public. Such guidelines and standards, in the areas addressed therein, shall serve as an interpretation of this division.

SECTION 85. Section 11.88.030 is hereby amended to read as follows:

11.88.030 Trade ~~s~~Secrets.

A. If an applicant or permittee believes that a request for information made by either the application form or otherwise pursuant to this division involves the release of a trade secret, the applicant or permittee shall so notify the ~~d~~Director in writing. As used herein, "~~trade secret~~" shall have the meaning given to it by Section 6254(K) of the ~~Government Code~~.

B. Subject to the provisions of this section, the ~~d~~Director shall protect from disclosure any trade secret coming into his or her possession when requested to do so in writing by the applicant or permittee. ~~Any such~~No such trade secret shall ~~not be~~ disclosed to anyone without the consent of the applicant or permittee except:

1. To an officer or employee of the ~~e~~County, the CUPA, the ~~s~~State of California, or the United States of America, in connection with the official duties of such officer or employee under any law for the protection of health, or to contractors ~~with~~of the ~~e~~County and their employees, if in the opinion of the ~~d~~Director such disclosure is

necessary and required for the satisfactory performance of a contract for performance of work or for protection of health; or

2. To any physician where the physician determines that such information is necessary to the medical treatment of his or her patient;

3. To the extent that the Director reasonably determines that disclosure is required by the California Public Records Act, section 6250 et seq., of the California Government Code; or

4. Upon a valid court order.

C. Information certified by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protection against disclosure as specified by such official or in accordance with the laws of the United States.

D. The provisions of this section shall not permit an applicant or permittee to refuse to disclose information required pursuant to this division to the ~~e~~Director.

E. The confidential treatment of the identity of such trade secret disclosed to the ~~e~~County does not apply where there has been any unauthorized ~~discharge~~release related to such trade secret material which is reportable in compliance with Chapter 11.76 or where such disclosure arises out of any official emergency response relating to the facility involving such trade secret information by public safety personnel of the ~~e~~County.

SECTION 86. Section 11.88.040 is added to read as follows:

11.88.040 Reporting Requirements.

Every permittee shall comply with the reporting requirements of the Director, including the electronic submission requirements set forth in Chapter 6.7 and Chapter 6.11, Division 20, of the California Health and Safety Code and related regulations.

SECTION 87. Section 11.88.050 is hereby amended to read as follows:

11.88.050 Conflict wWith eOther lLaws.

Notwithstanding any other provision of this division:

A. If the facility is required to have an industrial waste disposal permit pursuant to Title 20, Division 2, of this code, an industrial wastewater discharge permit pursuant to the wastewater ordinance of the sanitation districts of Los Angeles County, or an industrial waste disposal permit from any other sewerage agency within the eCounty of Los Angeles, it shall be exempted from the provisions of this division provided the conditions and limitations of such permit satisfy the requirements of this division and the eDirector finds that the facility does not pose a threat to water quality.

B. No provision of this division shall be construed to supersede any other provisions of this eCounty code.

[1170010JWCC]

SECTION 88. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Mike Antonovich

Mayor

ATTEST:

Patrick Ogawa

Patrick Ogawa
Acting Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of June 2, 2015 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Hilda Solis
Mark Ridley-Thomas
Sheila Kuehl
Michael D. Antonovich

Noes

Supervisors None

Effective Date: July 2, 2015

Operative Date:

Patrick Ogawa
Patrick Ogawa
Acting Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

PATRICK OGAWA
Acting Executive Officer
Clerk of the Board of Supervisors

By *Anta*
Deputy



APPROVED AS TO FORM:
MARK J. SALADINO
County Counsel

By *Richard D. Weiss*
Richard D. Weiss
Chief Deputy County Counsel